

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: William MacLure	Team: Squad #6	CCRB Case #: 201801196	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 01/13/2018 9:20 PM	Location of Incident: § 87(2)(b)	Precinct: 103	18 Mo. SOL 7/13/2019	EO SOL 7/13/2019	
Date/Time CV Reported Tue, 02/13/2018 9:48 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 02/13/2018 9:48 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Brian Greene	01359	963554	103 PCT
2. POM Reinaldo Alvarez	15342	927853	103 PCT
3. POM Brian Gilmor	05981	963541	103 PCT
4. An officer			103 PCT
5. SGT Loida Lamendola	01252	916086	103 PCT
6. LT David Voyer	00000	931390	103 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT David Voyer	Abuse: Lieutenant David Voyer entered § 87(2)(b) in Queens.	§ 87(2)(b)
B.POM Reinaldo Alvarez	Force: Police Officer Reinaldo Alvarez used physical force against § 87(2)(b)	§ 87(2)(b)
C.POM Brian Greene	Force: Police Officer Brian Greene used physical force against § 87(2)(b)	§ 87(2)(b)
D.POM Brian Gilmor	Force: Police Officer Brian Gilmor used physical force against § 87(2)(b)	§ 87(2)(b)
E. An officer	Force: An officer used a chokehold against § 87(2)(b)	§ 87(2)(b)
F. An officer	Force: An officer restricted § 87(2)(b)'s breathing	§ 87(2)(b)
G.LT David Voyer	Force: Lieutenant David Voyer directed Police Officer Brian Greene to use a taser against § 87(2)(b)	§ 87(2)(b)
H.POM Brian Greene	Force: Police Officer Brian Greene used a taser against § 87(2)(b)	§ 87(2)(b)
I.POM Brian Greene	Force: Police Officer Brian Greene used a taser against § 87(2)(b)	§ 87(2)(b)
§ 87(4-b), § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)
§ 87(4-b), § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)
§ 87(4-b), § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)

Case Summary

On February 13, 2018, § 87(2)(b) filed this complaint with the CCRB over the phone. This case was closed as “Closed – Pending Litigation” because § 87(2)(b)'s attorney advised him not to provide a statement to the CCRB. The case was reopened on June 8, 2018.

On January 13, 2018, at approximately 9:20 p.m., § 87(2)(b)'s sister, § 87(2)(b) called 911 and reported that § 87(2)(b) assaulted her and their mother, § 87(2)(b) PO Brian Greene, PO Brian Gilmor, PO Reinaldo Alvarez, Lt. David Voyer, and Sgt. Loida Lamendola of the 103rd Precinct responded to their home, located at § 87(2)(b), in Queens. Lt. Voyer, Sgt. Lamendola, PO Alvarez, PO Gilmor, and PO Greene all entered § 87(2)(b), in Queens (**Allegations A: Abuse of Authority, § 87(2)(g)**). Inside the kitchen, PO Alvarez was questioning § 87(2)(b) about what had transpired. § 87(2)(b) did not want to cooperate with the officers and asked if he was being detained. PO Alvarez, PO Gilmor, and PO Greene grabbed § 87(2)(b) used force in an attempt to place him into handcuffs (**Allegations B through D: Force, § 87(2)(g)**). During the struggle, an officer placed § 87(2)(b) into a chokehold, restricting his breathing (**Allegations E and F: Force, § 87(2)(g)**). Lt. Voyer instructed PO Greene to use a taser against § 87(2)(b) (**Allegations G and H: Force, § 87(2)(g)**). PO Greene used a second taser cycle against § 87(2)(b) (**Allegation I: Force, § 87(2)(g)**). The officers placed § 87(2)(b) into handcuffs and removed him to the hospital. § 87(2)(b) was arrested. § 87(4-b), § 87(2)(g)

There was no video footage of this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Lieutenant David Voyer entered § 87(2)(b), in Queens.

This allegation was consulted with a CCRB attorney.

§ 87(2)(b) (Board Review 01) stated that, on January 13, 2018, he, § 87(2)(b) and § 87(2)(b) were all loudly arguing inside their home at § 87(2)(b), in Queens. § 87(2)(b) called 911 and told officers that he punched her in the head and threw her on the floor. § 87(2)(b) denied that this occurred and stated that § 87(2)(b) had no injuries. Almost immediately after § 87(2)(b) called 911, Lt. Voyer, Sgt. Lamendola, PO Alvarez, PO Greene, and PO Gilmor arrived at the house. § 87(2)(b) opened the door for the police and let them into the house. § 87(2)(b) did not hear any conversation between § 87(2)(b) and the officers.

§ 87(2)(b) and § 87(2)(b) were unavailable to provide statements to the CCRB.

Lt. Voyer (Board Review 02) responded to a radio call for back up at § 87(2)(b), in Queens. Lt. Voyer was the first to arrive at the location, followed by PO Alvarez, PO Green, PO Gilmor, and Sgt. Lamendola. One of the officers rang the doorbell, but Lt. Voyer did not remember who specifically did so. § 87(2)(b) answered the door and stood at the threshold while speaking with the officers. § 87(2)(b) confirmed that someone called 911, but Lt. Voyer did not remember if she said who called or why the call was placed. The officers asked § 87(2)(b) for permission to come inside and she invited all the officers into the residence. Lt. Voyer, Sgt. Lamendola, PO Alvarez, PO Greene, and PO Gilmor entered after being invited in by § 87(2)(b). No one protested to the officers entering the residence.

to his room. § 87(2)(b) also wanted to leave the house, but PO Alvarez did not remember if § 87(2)(b) stated a reason for wanting to leave. PO Alvarez primarily interacted with § 87(2)(b). Approximately 10 minutes after the officers entered the home, one or multiple officers informed § 87(2)(b) that he was under arrest. PO Alvarez did not remember if he asked § 87(2)(b) for identification or if § 87(2)(b) asked officers if he was being detained. § 87(2)(b) was isolated in the kitchen next to a knife set. PO Alvarez instructed PO Greene to block access to the knife set. § 87(2)(b) attempted to leave the kitchen by physically bypassing PO Alvarez, at which point PO Alvarez, PO Greene, and PO Gilmor began to use physical force against § 87(2)(b). PO Alvarez attempted to place one of § 87(2)(b)'s arms behind his back, while other officers assisted, but he could not remember who specifically assisted. § 87(2)(b) briefly pulled PO Alvarez's hair. PO Alvarez did not remember § 87(2)(b) striking any officer. § 87(2)(b) was flailing his arms during the struggle.

PO Greene testified that he and PO Gilmor assisted PO Alvarez to try and place § 87(2)(b) into handcuffs. PO Greene grabbed § 87(2)(b)'s left arm and tried to place it behind his back, but § 87(2)(b) physically prevented him from doing so. PO Greene did not know what PO Gilmor was doing because he was on the other side of § 87(2)(b). PO Greene did not state that § 87(2)(b) grabbed PO Alvarez's hair.

PO Gilmor's stated that § 87(2)(b) swung his hand at PO Alvarez and missed, and then grabbed PO Alvarez's hair. PO Gilmor attempted to get § 87(2)(b)'s right hand free from PO Alvarez. PO Gilmor got behind § 87(2)(b) and hooked § 87(2)(b)'s right arm with his right arm, and left arm with his left arm. PO Gilmor believed PO Greene made contact with § 87(2)(b) but did not see what he did.

Lt. Voyer did not remember § 87(2)(b) ever saying he wanted to go to his bedroom or outside. § 87(2)(b) never attempted to leave the kitchen prior to the struggle with officers. PO Alvarez attempted to place § 87(2)(b) under arrest by grabbing one of his arms. § 87(2)(b) began resisting by pulling his arms away from PO Alvarez and pushing PO Alvarez's chest away from him. PO Greene and PO Gilmor began to assist PO Alvarez and try to subdue § 87(2)(b). All three officers attempted to physically control § 87(2)(b) by holding his arms and pushing his back against the counter. § 87(2)(b) continued to refuse to put his hands behind his back and push the officers off him. The officers were attempting unsuccessfully to bring him to the ground. Lt. Voyer did not state that § 87(2)(b) grabbed PO Alvarez's hair.

Sgt. Lamendola was trying to calm down § 87(2)(b). Sgt. Lamendola did not remember specifically what the officers did to try and subdue § 87(2)(b). Sgt. Lamendola stated that § 87(2)(b) struck an officer and grabbed an officer's hair.

Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person into custody or to prevent escape from custody. In determining whether the use of force is reasonable, members of the service should consider, among many factors, actions taken by the subject, duration of the action, immediacy of the perceived threat or harm, whether the subject is actively resisting custody, and whether the subject is attempting to evade arrest by flight, Patrol Guide Procedure 221-01, "Force Guidelines," (Board Review 11).

When a member of the service must gain compliance, control, or custody of an uncooperative subject, the member should take necessary action to protect life and personal safety of all persons present, including subjects being placed into custody, apply no more than the reasonable force necessary to gain control, assess the situation continually and adjust the use of force as necessary, Patrol Guide Procedure 221-02, "Use of Force" (Board Review 12).

§ 87(2)(g)

§ 87(2)(g)

Allegation (E) Force: An officer used a chokehold against § 87(2)(b)

Allegation (F) Force: An officer restricted § 87(2)(b)'s breathing.

§ 87(2)(b) stated that, while the officers were using force against him, an officer put his arm around § 87(2)(b)'s neck and put pressure on his windpipe, restricting his breathing. § 87(2)(b) was not sure which officer was doing this and could not tell where they were standing.

PO Alvarez, PO Greene, and PO Gilmor all denied that they ever placed § 87(2)(b) into a chokehold, put pressure on § 87(2)(b)'s windpipe, or restricted his breathing in any way. PO Alvarez, PO Greene, and PO Gilmor denied that they saw any officer do this.

Lt. Voyer and Sgt. Lamendola denied that they saw any officer place § 87(2)(b) into a chokehold or do anything to restrict his breathing.

§ 87(2)(g)

Allegation (G) Force: Lieutenant David Voyer instructed Police Officer Brian Greene to use a taser against § 87(2)(b)

Allegation (H) Force: Police Officer Brian Greene used a taser against § 87(2)(b)

Allegation (I) Force: Police Officer Brian Greene used a taser against § 87(2)(b)

§ 87(2)(b) stated that, while the officers were trying to bring him to the ground, he felt something shoot him in his left thigh, which he later realized was a taser. § 87(2)(b) fell to the ground face first as a result of being shot by the taser. The prongs were approximately three inches apart on § 87(2)(b)'s thigh. § 87(2)(b) only felt one taser cycle.

Lt. Voyer stated that, after the officers were struggling with § 87(2)(b) for approximately 15 seconds, Lt. Voyer asked if any officer possessed a taser. Lt. Voyer felt that the officers needed to use that level of force to subdue § 87(2)(b) as he continued to resist the three officers trying to take him into custody. § 87(2)(b) whose back was against the counter, was continuing to physically push the officers. PO Greene responded affirmatively that he had a taser. Lt. Voyer instructed PO Greene to use the taser against § 87(2)(b). PO Greene took approximately two steps back before using the taser, with prongs, against § 87(2)(b). Lt. Voyer did not remember where the prongs made contact with § 87(2)(b). § 87(2)(b) immediately fell to the ground and officers placed handcuffs on him. Lt. Voyer did not know who placed the handcuffs on § 87(2)(b). § 87(2)(b) did not continue to resist after being placed into

handcuffs but was agitated. Lt. Voyer believed that PO Greene only used one cycle of the taser against § 87(2)(b).

PO Greene and the other officers told § 87(2)(b) not to resist and to allow them to place him into handcuffs, but he would not let them. § 87(2)(b) swung his arm at PO Alvarez, but PO Greene did not know if § 87(2)(b) made contact with PO Alvarez when he did this. PO Greene did not remember § 87(2)(b) making any statements at the time. § 87(2)(b) was still standing at the time. § 87(2)(b) was not on the ground. PO Greene stepped back and deployed his taser. PO Greene did not know how long the officers were trying to get § 87(2)(b) into handcuffs before he stepped back and deployed his taser, but stated that it was not longer than two minutes. When PO Greene stepped back he stated, “You’re going to get tased, Taser, taser, taser.” PO Greene did not use the taser in drive stun mode, but deployed the prongs, which struck § 87(2)(b) in the left leg. When PO Greene deployed the taser, PO Alvarez and PO Gilmor let go of § 87(2)(b). § 87(2)(b) fell to the ground. PO Alvarez and PO Gilmor attempted to place § 87(2)(b) in handcuffs while he was on the ground, but after the five seconds of the cycle, § 87(2)(b) became aggressive again. § 87(2)(b) was pulling his arms away from the officers and not allowing them to place him into handcuffs. § 87(2)(b) did not get up off the ground, but he was trying to get up. PO Greene tasered § 87(2)(b) for another five seconds cycle. PO Green was unable to estimate how long was between the cycles but stated that it was, “Not long at all.” PO Alvarez and PO Gilmor got § 87(2)(b) into handcuffs during the second taser cycle. PO Greene stated that he chose to use the taser because § 87(2)(b) was being aggressive towards the officers, causing them to all fear for their safety, there were knives near § 87(2)(b) and § 87(2)(b) kept saying he wanted to go back to his room.

PO Alvarez stated that, after PO Greene deployed the taser, § 87(2)(b) fell to his knees and then landed on his stomach with his arms in front of him. § 87(2)(b) continued to refuse to put his arms behind his back and wiggled his body while on the ground. PO Alvarez believed that only one cycle of the taser was used against § 87(2)(b).

PO Gilmor’s testimony was consistent with Lt. Voyer’s and PO Alvarez’s testimonies.

Sgt. Lamendola did not remember if PO Greene was instructed to use the taser nor did she remember how many cycles of the taser were used against § 87(2)(b).

The TRI Report Prepared by PO Greene (Board Review 13) noted that § 87(2)(b) continued to resist after the taser was used against him.

The TASER information sheet (Board Review 14) noted that two five second cycles of the taser were used at 9:42 p.m. on January 13, 2018.

Medical Records regarding § 87(2)(b)’s treatment at § 87(2)(b) (Board Review 15 and 16) noted that § 87(2)(b) was brought in by EMS in NYPD custody. § 87(2)(b) was aggressive and uncooperative during triage. § 87(2)(b) had been fighting in house and attacked his family members before being restrained by NYPD. § 87(2)(b) had a past medical history of depression and schizophrenia. § 87(2)(b) was diagnosed with alcohol intoxication without complication.

A Conducted Electrical Weapon (taser) should only be used against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or other person(s) actually present. Officers should consider the totality of the circumstances when deciding the reasonable amount of force necessary to overcome resistance when effecting an arrest. Some factors to consider when determining the appropriate use of force include, among other factors: the nature and severity of the crime/circumstances, actions taken by the subject, duration of the action, immediacy of the perceived threat or harm, whether the subject

is actively resisting custody, and whether the subject is attempting to evade arrest by flight. Patrol Guide Procedure 221-08, “Use of Conducted Electrical Weapon (CEW)” (Board Review 17).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This was § 87(2)(b)'s first complaint at the CCRB (Board Review 22).
- Lt. Voyer has 11 allegations stemming from six complaints over his 16-year tenure with the NYPD.
- Sgt. Lamendola has three allegations stemming from two complaints over her 23-year tenure with the NYPD.
- PO Alvarez has 16 allegations stemming from eight complaints over his 17-year tenure with the NYPD.

- This is the first complaint filed against PO Greene over his one-year tenure with the NYPD.
- This is the first complaint filed against PO Greene over his one-year tenure with the NYPD.

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation.
- § 87(2)(b), § 87(2)(c) [REDACTED]
[REDACTED]
[REDACTED]

Squad No.: _____

Investigator: _____

Signature	Print Title & Name	Date
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Squad Leader: _____

Signature	Print Title & Name	Date
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Reviewer: _____

Signature	Print Title & Name	Date
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